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2016 MAY -4 AM 10:29

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

U.S. DISTRICT COURT
 NORTHERN DISTRICT OF OHIO
 CLEVELAND

LEE ANN THEOBALD,)	CASE NO. 1:16 CV 521
)	
Plaintiff,)	Judge Dan Aaron Polster
)	
vs.)	
)	<u>MEMORANDUM OF OPINION</u>
CLEVELAND CLINIC FOUNDATION,)	<u>AND ORDER</u>
)	
Defendant.)	

Pro se Plaintiff Lee Ann Theobald filed this action against the Cleveland Clinic Foundation ("CCF"). Her Complaint (Doc. # 1) is very brief and contains no detail. She states CCF erroneously accused her of stealing a bottle of liquid morphine. She does not indicate whether she was an employee, patient or visitor to a CCF facility. Plaintiff does not identify any legal claims upon which she is basing this action. She asks this Court to clear her name in all records. Plaintiff also filed an Application to Proceed *In Forma Pauperis* (ECF No. 1). That Application is granted.

I. STANDARD OF REVIEW

Although *pro se* pleadings are liberally construed, *Boag v. MacDougall*, 454 U.S. 364, 365 (1982) (per curiam); *Haines v. Kerner*, 404 U.S. 519, 520 (1972), the Court is required to dismiss an *in forma pauperis* action under 28 U.S.C. §1915(e) if it fails to state a claim upon which relief can be granted, or if it lacks an arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319 (1989); *Lawler v. Marshall*, 898 F.2d 1196 (6th Cir. 1990); *Sistrunk v. City of*

Strongsville, 99 F.3d 194, 197 (6th Cir. 1996). An action has no arguable basis in law when a Defendant is immune from suit or when a Plaintiff claims a violation of a legal interest which clearly does not exist. *Neitzke*, 490 U.S. at 327. An action has no arguable factual basis when the allegations are delusional or rise to the level of the irrational or “wholly incredible.” *Denton v. Hernandez*, 504 U.S. 25, 32 (1992); *Lawler*, 898 F.2d at 1199.

When determining whether the Plaintiff has stated a claim upon which relief can be granted, the Court must construe the Complaint in the light most favorable to the Plaintiff, accept all factual allegations as true, and determine whether the Complaint contains “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007). The Plaintiff’s obligation to provide the grounds for relief “requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.” *Id.* Although a Complaint need not contain detailed factual allegations, its “factual allegations must be enough to raise a right to relief above the speculative level on the assumption that all the allegations in the Complaint are true.” *Id.* The Court is “not bound to accept as true a legal conclusion couched as a factual allegation.” *Papasan v. Allain*, 478 U.S. 265, 286 (1986).

The Court in *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009), further explains the “plausibility” requirement, stating that “a claim has facial plausibility when the Plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. Furthermore, “the plausibility standard is not akin to a ‘probability requirement,’ but it asks for more than a sheer possibility that a

defendant acted unlawfully.” *Id.* This determination is a “context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.*

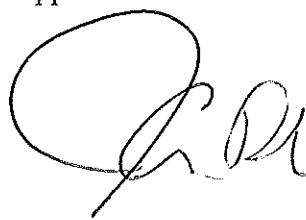
III. ANALYSIS

Plaintiff’s Complaint fails to state a claim upon which relief may be granted. To meet the minimal pleading requirements, the Complaint must give the Defendant fair notice of what the Plaintiff’s legal claims are and the grounds upon which they rest. *Bassett v. National Collegiate Athletic Ass’n*, 528 F.3d 426, 437 (6th Cir. 2008). Here, Plaintiff alleges very few facts. She states she was falsely accused of taking liquid morphine, but she does not provide any additional facts needed to form a cause of action. Furthermore, she does not identify any legal claims, and none are apparent on the face of the Complaint. The Complaint does not satisfy the minimum pleading requirements.

IV. CONCLUSION

Accordingly, Plaintiff’s Application to Proceed *In Forma Pauperis* (ECF No. 1) is granted and this action is **DISMISSED** pursuant to 28 U.S.C. § 1915(e). The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.¹

IT IS SO ORDERED.



Dan Aaron Polster
United States District Judge

¹ 28 U.S.C. § 1915(a)(3) provides:

An appeal may not be taken *in forma pauperis* if the trial court certifies that it is not taken in good faith.